



General Assembly

February Session, 2016

Amendment

LCO No. 4033



Offered by:

SEN. GOMES, 23rd Dist.

To: Subst. Senate Bill No. 223

File No. 210

Cal. No. 180

***"AN ACT CONCERNING LIENS FOR UNPAID EMPLOYEE WAGES
AND DISCIPLINARY SUSPENSIONS FOR HARASSMENT OR
WORKPLACE VIOLENCE."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2016*) (a) Whenever the Labor
4 Commissioner or an employee has probable cause to believe that an
5 employer failed to pay wages to such employee in violation of section
6 31-60 or sections 31-71b to 31-71e, inclusive, of the general statutes or
7 has failed to compensate an employee in violation of section 31-76c or
8 31-76k of the general statutes, the Labor Commissioner or such
9 employee shall be entitled to a lien on any property, real or personal,
10 in which such employer has an interest to enforce payment of such
11 wages or compensation and any statutory penalties that would be
12 available in a civil action under section 31-68 or 31-72 of the general
13 statutes.

14 (b) To establish a lien for unpaid wages under this section, the Labor

15 Commissioner or the employee shall serve notice of such lien by
16 certified mail with a return receipt requested or by priority mail with
17 delivery confirmation to the employer that failed to pay such wages.
18 Such notice of lien shall contain such information as will identify (1)
19 the owner of the property upon which the lien is claimed, (2) the
20 residence or business address of such owner, (3) the specific property
21 claimed to be subject to such lien, (4) the location of such property, (5)
22 the amount of wages or compensation and any accrued penalties and
23 interest claimed to be due the employee in relation to the lien, and (6)
24 the pay period or periods for which such lien is claimed. Such notice of
25 lien shall be sent not later than one year after the final pay period in
26 which such wages or compensation were due and shall advise the
27 employer that the employer may dispute such lien by filing a
28 complaint in the Superior Court where the employer's property is
29 located not later than thirty days after such notice of lien is served.

30 (c) An employer may dispute such lien by filing a complaint in the
31 Superior Court where the employer's property is located not later than
32 thirty days after notice was served on the employer. A complaint
33 under this section shall include (1) a copy of the notice served
34 pursuant to subsection (b) of this section, and (2) a statement of any
35 defense to the lien for unpaid wages with an affidavit containing a
36 statement of facts that support such defense. On request of the
37 employer or the Labor Commissioner or the employee, the court may
38 hold an evidentiary hearing prior to making a determination. If the
39 court, upon consideration of the facts before it and taking into account
40 any defenses, counterclaims or set-offs, claims of exemption and claims
41 of adequate insurance, finds that the Labor Commissioner or the
42 employee has shown probable cause that the employer owes wages or
43 compensation and any accrued penalties and interest in the amount of
44 the lien sought and finds that a lien securing the judgment should be
45 granted, the lien applied for shall be granted as requested or as
46 modified by the court. The court shall determine whether to issue an
47 order granting such lien not later than forty-five days after receiving
48 the employer's complaint and shall provide written notification to the

49 employer and to the Labor Commissioner or the employee of such
50 determination.

51 (d) If the employer fails to file a timely complaint disputing the lien
52 and the employee or Labor Commissioner files a copy of the notice of
53 lien and proof of service the with the clerk, the court shall issue an
54 order granting a lien for the amount claimed.

55 (e) A lien is established under this section after the court provides
56 written notification to the employer and to the Labor Commissioner or
57 the employee of its decision to grant a lien, provided such employer
58 does not file an appeal of such determination within thirty days after
59 receiving such determination. The lien shall attach and become
60 perfected at the time when notice of such lien is filed as provided in
61 subsection (i) of this section. Such lien shall be effective for a period of
62 ten years from the date of filing unless extinguished or discharged as
63 provided in subsection (g) of this section.

64 (f) An action to recover unpaid wages or compensation and any
65 accrued penalties and interest by the Labor Commissioner or the
66 employee shall be deemed an action to foreclose upon any property
67 subject to a lien established under this section. In any judgment
68 resulting from such action, the court may order the sale or the transfer
69 to the employee of title or possession of any property subject to such
70 lien. Any property subject to such lien may be foreclosed upon in the
71 same manner as a mortgage at any point after a judgment for unpaid
72 wages is issued.

73 (g) A lien established under this section shall be extinguished upon
74 expiration of the limitations period applicable to any claim for unpaid
75 wages or compensation and any accrued penalties and interest if no
76 civil action to recover such wages or compensation and any accrued
77 penalties and interest is commenced prior to the expiration of such
78 limitations period. If judgment is entered in favor of the employer in
79 any action to recover such wages or compensation and any accrued
80 penalties and interest, the lien shall be extinguished upon expiration of

81 the applicable appeals period if no appeal is filed. If an appeal is filed,
82 the lien shall remain in force until all issues on appeal have been
83 decided. Any person who has lodged for record a wage lien on any
84 property shall, after receiving satisfaction of his or her claim or after
85 the rendition of a final judgment against such person showing that
86 nothing is due thereon, within ten days after being requested to do so
87 in writing by any person interested in having the lien removed, sign
88 and lodge in the office in which the lien was filed for record a
89 certificate that such lien is removed which, when recorded, shall
90 discharge such lien. If the person fails to comply with such request, he
91 or she shall pay to the party aggrieved by such failure such sum, not
92 exceeding half the amount claimed by such lien, as the court having
93 cognizance of the action brought therefor may determine.

94 (h) Notwithstanding any provision of the general statutes, a lien
95 established under this section shall have priority over any other
96 encumbrance originating after the employee's unpaid wages or
97 compensation became due. Such lien shall have priority over the rights
98 of any purchaser of any property of the employer, including against
99 any bona fide purchaser under 11 USC 545(2). A lien established under
100 this section is effective against the employer and the estate of the
101 employer.

102 (i) A lien established under this section against real property shall
103 be recorded with the town clerk for the town in which any portion of
104 the employer's property is located. A lien established under this
105 section against personal property shall be recorded in the same
106 manner as a financing statement is filed with the Secretary of the State.

107 (j) Nothing in this section shall be construed to prevent the Labor
108 Commissioner or an employee from exercising any right or seeking
109 any remedy to which he or she may otherwise be entitled under any
110 state or federal law.

111 Sec. 2. (NEW) (*Effective from passage*) (a) For purposes of this section,
112 "employer" has the same meaning as provided in section 31-58 of the

113 general statutes, and "employee" means any individual employed or
114 permitted to work by an employer.

115 (b) If an employee employed in a bona fide executive,
116 administrative or professional capacity, as defined in the regulations of
117 the Labor Commissioner issued pursuant to section 31-60 of the
118 general statutes, is absent from work as a result of a disciplinary
119 suspension for violating a written workplace conduct rule prohibiting
120 harassment or workplace violence, the employer may deduct from the
121 wages of such employee an amount equal to the wages that would
122 have been paid for the number of days such employee is absent.

123 (c) The Labor Commissioner may adopt regulations, in accordance
124 with the provisions of chapter 54 of the general statutes, as the
125 commissioner deems necessary to implement the provisions of
126 subsection (b) of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>from passage</i>	New section